

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
NO. 7:13-CV-00192-BR

DAVID RHODES and DARLENE
HOLLAND,

Plaintiffs,

v.

JOHN INGRAM, in his official capacity as
Sheriff of Brunswick County, TIMOTHY
CLEMMONS, TINA EDWARDS, and
WESTERN SURETY COMPANY,

Defendants.

TIMOTHY CLEMMONS,

Counterclaim Plaintiff,

v.

DAVID RHODES,

Counterclaim Defendant.

ORDER

This matter is before the court on plaintiffs David Rhodes and Darlene Holland's motion to compel discovery responses, extend discovery deadlines, and deny consideration of defendants' motions for summary judgment. (DE # 31.)

Plaintiffs filed this lawsuit on 6 August 2013 in Brunswick County Superior Court, North Carolina. (DE # 1-2.) Plaintiffs assert claims pursuant to 42 U.S.C. § 1983, (*id.* ¶ 84), as well as state law claims of false imprisonment, (*id.* ¶¶ 91-97), intentional infliction of emotional distress, (*id.* ¶¶ 98-104), and negligent infliction of emotional distress, (*id.* ¶¶ 105-113). Defendants removed the case to this court on 4 September 2013, (DE # 1-1), and filed an answer on 9 September 2013, (DE # 9). Timothy Clemmons filed a counterclaim against plaintiff David

Rhodes alleging defamation. (*Id.*)

U.S. Magistrate Judge James E. Gates approved the parties' joint discovery plan, (DE # 14), on 31 October 2013, (DE # 16). Under the plan, discovery was to be completed by 15 May 2014 and dispositive motions were due by 16 June 2014. (*Id.* at 1-2.) On 15 May 2014, the day discovery was set to close, plaintiffs filed a motion for extension of time to complete discovery, (DE # 25), to which defendants responded in opposition, (DE # 26). While that motion was pending before Judge Gates, defendants and Timothy Clemons as counterclaim plaintiff filed motions for summary judgment on 12 June 2014 and 16 June 2014, respectively. (DE ## 27, 29.) On 1 July 2014, plaintiffs filed the instant motion, (DE # 31), and defendants filed a response in opposition on 10 July 2014, (DE # 33). On 25 July 2014, Judge Gates granted in part and denied in part plaintiffs' original motion for extension of time to complete discovery, allowing plaintiffs to depose defendant Tina Edwards. (DE # 36.) Plaintiffs filed a reply to defendants' response to the instant motion on 28 July 2014, in which plaintiffs acknowledge that Judge Gates' ruling now moots their second request for an extension of the discovery deadline. (DE # 37, at 5.)

Accordingly, plaintiffs' motion for extension of time to complete discovery is DENIED as MOOT.

Plaintiffs' motion to compel discovery, along with their request for costs and attorney's fees, is REFERRED to Magistrate Judge Gates.

Defendants' motions for summary judgment are HELD IN ABEYANCE pending

disposition of plaintiffs' motion to compel and subject to further order of this court.

This 28 August 2014.



W. Earl Britt
Senior U.S. District Judge